

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the referral Order of the Chief District Judge.

Now before the Court is a Motion to Quash Summons and Service of Summons and Complaint or in the Alternative, Motion to Dismiss Complaint [Doc. 4]. On July 7, 2015, the Court entered an Order extending the Plaintiff's deadline for amending his complaint and also extending Plaintiff's deadline for serving defendants in this case. Additionally, the Court held the instant motion in abeyance pending expiration of the extended deadlines. The parties appeared before the Court on August 17, 2015, to address this motion.

In the instant motion, Diverse Concepts LLC moves the Court to quash or otherwise dismiss the summons issued with regard to Diverse Concepts LLC d/b/a Parkside Grill on the basis that Diverse Concepts LLC d/b/a Parkside Grill is not a legal entity and no such legal entity exists. On July 10, 2015, Plaintiff filed his Amended Complaint [Doc. 27] naming two different entities – Diverse Concepts LLC and Parkside Grill – as defendants in this case and dropping Diverse Concepts LLC d/b/a Parkside Grill as a defendant. Diverse Concepts LLC has filed an

appeal of the Order that allowed Plaintiff to amend his Complaint. [Doc. 28]. However, both parties agreed at the hearing that Plaintiff's amended pleading was timely under the Order as entered by the undersigned on July 7, 2015. The parties further agreed that the Order is the current ruling in this case unless and until the District Judge modifies or otherwise vacates it.

In sum, the Court finds that Plaintiff has amended his pleading to remove Diverse Concepts LLC d/b/a Parkside Grill as a defendant in this case. Therefore, the Court finds that the instant motion's requests relating to Diverse Concepts d/b/a Parkside Grill are now moot, and accordingly, the Motion to Quash Summons and Service of Summons and Complaint or in the Alternative, Motion to Dismiss Complaint **[Doc. 4]** is **DENIED AS MOOT**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge